

Student Privacy Bills

The focus of these bills is to limit or prohibit activities by schools, state agencies, and online operators in order to safeguard students' personal information. The bills do not give schools, departments or online operators new legal authority; they regulate these entities' existing authority. Furthermore, nothing in these bills prevents parents from opting-out of standardized testing or other things at the local school level.

Senate Bill 33 – Student Data Privacy

- Prohibits the Department of Education (MDE) and Center for Educational Performance and Information (CEPI) from selling personally identifiable information in a student's education records to any for-profit business entity. Charter schools would still be allowed to share student information with their management companies.
- Requires MDE and CEPI to post on their websites a notice of the information collected for a student's education records.
- Prohibits school districts from selling or providing to a for-profit business entity any personally identifiable information that is part of a student's education records.
- Requires public schools and state departments to disclose to parents (upon request) any personally identifiable information about the student collected or created.
- If the department or schools share such information with another individual, agency or organization, requires this be reported to the parent (upon written request), along with the contact information of the individual with whom the information was shared and the reason for sharing.
- Requires contracts with vendors to contain express protections/safeguarding of private student education records.

Senate Bill 510 – “The Student Online Personal Protection Act”

- Regulates operators of K-12 Internet websites, online services, online applications and mobile applications, whether companies contract with schools or not.
- Prohibits an operator (Internet website, online service, online application or mobile application used primarily for K-12 school purposes and designed and marketed for K-12 school purposes) as follows:
 - Cannot target advertising on the site based on info from K-12 users.
 - Cannot use info gathered to build a profile about a K-12 student.
 - Cannot sell a student's information.

- Cannot disclose covered information except for legal, safety or operational improvement reasons (see below).
- Requires an operator to do the following:
 - Protect student data through reasonable security procedures/practices.
 - Delete a student's covered information if the school or district requests.

Also, under SB 33, schools must give parents/guardians a form within the first 30 days of school detailing specific instances where a student's information could be shared (examples include: student directory, athletic rosters, class lists, recital programs, etc.). The bill requires that parents be allowed to opt-out of any or all items.

Student data privacy legislation has been on the rise in many states, in direct response to parent concerns and outdated federal law. In 2015, 47 states introduced 186 bills addressing student data privacy, and 15 states passed 28 new student data privacy laws. So far in 2016, 36 states have introduced 112 bills, with 16 passed in 14 states. At the federal level, bills have been introduced but not passed into law. If there's one privacy goal that commands widespread support, it's the protection of student data. Much of the state legislation, including SB 510, is modeled after California's landmark Student Online Personal Information Protection Act (SOPIPA), which went into effect on January 1, 2016.

***Covered information is defined as: Personally identifiable information or material in any media format that is created by or provided by an employee or agent of the school or school district, or information gathered by an operator through the operation of a site service or application for K-12 school purposes. This includes but is not limited to: Information in the student's educational record; Email; First or last name; Home address; Telephone number; Discipline records; Test results; Special education data; Grades; Evaluations; Search activity; Photos.**

An operator may disclose covered information under the following circumstances:

- When required by law.
- For legitimate research purposes – as long as the covered information is not used for advertising purposes or to amass a student profile.
- For legitimate K-12 school purposes.

The bill does not prohibit an operator from using covered information not associated with an identified student in order to improve educational products or to demonstrate the effectiveness of the operator's products or services, including in their marketing.